



Setter Ollila LLC  
2060 Broadway  
Suite 300  
Boulder, Colorado 80302

PATENT APPLICATION

ATTORNEY DOCKET NO. 00CXT0006N

IN THE  
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Jerome Michel Vialle

Serial No.: 09/696,562

Examiner: Thomas J. Lett

Filing Date: 10/25/2000

Group Art Unit: 2626

Title: PACKET LENGTH INDICATION FOR A FACSIMILE SYSTEM

COMMISSIONER FOR PATENTS  
P. O. Box 1450  
Alexandria, VA 22313-1450

BRIEF ON APPEAL

INTRODUCTION

Pursuant to the provisions of 37 CFR § 1.191 *et seq.*, applicants hereby appeal to the Board of Patent Appeals and Interferences (the “Board”) from the examiner’s final rejection dated 11/30/2004. A notice of appeal was sent on the same day as this appeal brief. This brief on appeal is being filed in triplicate (37 CFR § 1.192(a)) and is accompanied by the requisite fee (37 CFR 1.192(a) and 1.17(f)).

REAL PARTY IN INTEREST

The entire interest in the present application has been assigned to Mindspeed Technologies as recorded at Reel 011652, Frame 0707.

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## **RELATED APPEALS AND INTERFERENCES**

There are no related appeals or interferences.

## **STATUS OF CLAIMS**

Claims 1 – 22 are pending.

Claims 1 – 22 have been finally rejected.

Claims 1 – 22 are on appeal.

## **STATUS OF AMENDMENTS**

There are no pending amendments.

## **SUMMARY OF INVENTION**

This invention relates generally to a system and method for transmitting a facsimile (FAX) across a path that contains a segment of a network that uses a Transmission Control Protocol/ Internet Protocol (TCP/IP). Before the segment of TCP/IP network, a communication processing system converts the FAX into a number of individual application packets that indicate the individual application packet lengths. The communication processing system converts the individual application packets into TCP/IP packets and inserts the TCP/IP packets onto the TCP/IP network. At the other end of the TCP/IP network segment, a second communication processing system receives the TCP/IP packets. The second communication processing system converts the TCP/IP packets back into individual application packets and then converts the individual application packets back into the FAX using the individual application packet lengths (see page 5 lines 4 – 15).

Typically the size of the individual application packet is different than the size of the TCP/IP packets. Because of the size difference, the TCP/IP packets may contain only a partial individual application packet. During the process of chopping up the individual application packets when converting them into TCP/IP packets, the boundaries between the individual application packets may be lost. This invention overcomes this problem by including the individual application packet lengths in the individual application packets. The communication processing system uses these individual application packet lengths to re-create the FAX in its proper form (see page 7 lines 8 – 12).

## **ISSUES**

1. Whether claims 1 – 22 are anticipated under 35 U.S.C. § 102(e) over Andreason (US6,687,354).

## **GROUPING OF CLAIMS**

For the purpose of this appeal claims 1 – 22 stand or fall together.

## **ARGUMENT**

### **OUTLINE**

- I. Summary of the brief on appeal.
- II. Summary of the requirements for *prima facie* anticipation.
- III. Claims 1 – 22 rejection.

#### **I. Summary of the brief on appeal**

- A. The 35 U.S.C. § 103(a) rejection of claims 1 – 22 is improper because a *prima facie* case for anticipation has not been established, for the following reasons: (1) the cited art does not teach or suggest every element of the claims, (2) the examiner incorrectly characterizes the cited art.

#### **II. Summary of the requirements for *prima facie* obviousness.**

##### MPEP 2131

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. V. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed Cir. 1987).

“The identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

“The elements must be arranged as required by the claim, but ... identity of terminology is not required.” *In re Bond*, 15 USPQ2d 1566 (Fed. Cir. 1990).

#### **III. Claims 1 – 22 rejection.**

Claims 1 – 22 have been finally rejected under 35 USC 102(e) as being anticipated by Andreason (US 6,687,354). Claim 1 requires:

1. A method for transferring a facsimile using a Transmission Control Protocol/Internet Protocol (TCP/IP) network, the method comprising:

converting the facsimile into application packets that indicate individual application packet lengths;

converting the application packets into TCP/IP packets;

transferring the TCP/IP packets to the TCP/IP network and receiving the transferred TCP/IP packets from the TCP/IP network;

converting the transferred TCP/IP packets into application packets; and

converting the transferred application packets into the facsimile using the individual application packet lengths.

Andreason does not teach or even talk about facsimiles. Claim 1 is a method for transferring a facsimile using a TCP/IP network (underline added). Claim 1 requires “converting the facsimile into application packets.” Andreason can not convert a facsimile into application packets when it does not have a facsimile to convert.

Further the application packets in claim 1 indicate “individual application packet lengths”. These “individual application packet lengths” are preserved through the transmission in the TCP/IP network and used when “converting the transferred application packets into the facsimile”. Claim 1 requires that the “individual application packet lengths” created when converting the facsimile into application packets be used to recreate the facsimile once the facsimile has been transferred over the TCP/IP network. The length indicated in a frame of a PPP protocol packet is not preserved through the transmission on the TCP/IP network in Andreason. Therefore Andreason does not use the length indicated in the PPP frame to convert the PPP packets back into a facsimile.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. V. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed Cir. 1987). Here, the cited art does not teach a facsimile being converted into application packet that indicate individual application packet lengths. The cited art does not teach preserving the individual application packet lengths

when transmitting the facsimile over the TCP/IP network. The cited art does not teach using the individual application packet lengths to convert the application packets back into a facsimile, therefore the cited prior art does not fulfill the requirements for a *prima facie* case of anticipation. Therefore claim 1 is allowable as written.

Claims 2 – 5 are dependent on allowable claim 1 and are therefore allowable.

Claim 6 also requires converting application packets into a facsimile “using individual second application packet lengths in the second application packets”. Therefore the arguments for claim 1 apply and claim 6 is allowable as written.

Claims 7 – 11 are dependent on allowable claim 6 and are therefore allowable.

The argument for claim 1 above applies to claim 12 and therefore claim 12 is allowable as written.

Claims 13 – 16 are dependent on allowable claim 12 and are therefore allowable.

Claim 17 also requires converting application packets into a facsimile “using individual second application packet lengths in the second application packets”. Therefore the arguments for claim 1 apply and claim 17 is allowable as written.

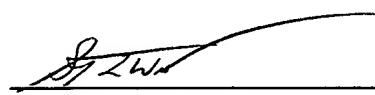
Claims 18 – 22 are dependent on allowable claim 17 and are therefore allowable.

### **Conclusion**

In view of the above, applicant respectfully request that the examiner's rejection of claims 1 – 22 be reversed.

Respectfully submitted,

Date: 1/20/05



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**SIGNATURE OF PRACTITIONER**

Steven L. Webb, Reg. No. 44,395  
Duft Setter Ollila & Bornsen LLC  
Telephone: (303) 938-9999 ext. 22  
Facsimile: (303) 938-9995

**Correspondence address:**

**CUSTOMER NO. 036122**

**APPENDIX I**  
**CLAIMS CURRENTLY PENDING**

1. A method for transferring a facsimile using a Transmission Control Protocol/Internet Protocol (TCP/IP) network, the method comprising:
  - converting the facsimile into application packets that indicate individual application packet lengths;
  - converting the application packets into TCP/IP packets;
  - transferring the TCP/IP packets to the TCP/IP network and receiving the transferred TCP/IP packets from the TCP/IP network;
  - converting the transferred TCP/IP packets into application packets; and
  - converting the transferred application packets into the facsimile using the individual application packet lengths.
2. The method of claim 1 further comprising receiving the facsimile from a telephone network.
3. The method of claim 1 further comprising transferring the facsimile to a telephone network.
4. The method of claim 1 wherein the individual application packet lengths are indicated for each respective application packet by adding an application packet length field to the respective application packet.
5. The method of claim 1 further comprising converting the facsimile into the application packets and converting the transferred application packets into the facsimile using equipment implementing International Telecommunication Union Recommendation T.38.
6. A method for transferring a first facsimile and a second facsimile using a Transmission Control Protocol/Internet Protocol (TCP/IP) network, the method comprising:

converting the first facsimile into first application packets that indicate individual first application packet lengths;

transferring the first application packets from the TCP/IP layer;

receiving second application packets from the TCP/IP layer; and

converting the second application packets into the second facsimile using individual second application packet lengths in the second application packets.

7. The method of claim 6 further comprising in the TCP/IP layer:

converting the first application packets into first TCP/IP packets;

transferring the first TCP/IP packets to the TCP/IP network;

receiving second TCP/IP packets from the TCP/IP network; and

converting the second TCP/IP packets into the second application packets.

8. The method of claim 7 further comprising receiving the first facsimile from a telephone network.

9. The method of claim 7 further comprising transferring the second facsimile to a telephone network.

10. The method of claim 6 wherein the individual first and second application packet lengths are indicated for each respective application packet by adding an application packet length field to the respective application packet.

11. The method of claim 6 further comprising converting the first facsimile into the first application packets and converting the second application packets into the second facsimile using equipment implementing International Telecommunication Union Recommendation T.38.

12. A facsimile system for transferring a facsimile using a Transmission Control Protocol/Internet Protocol (TCP/IP) network, the facsimile system comprising:

a first communication processing system configured to convert the facsimile into application packets that indicate individual application packet lengths, convert the application packets into TCP/IP packets, and transfer the TCP/IP packets to the TCP/IP network; and

a second communication processing system configured to receive the transferred TCP/IP packets from the TCP/IP network, convert the transferred TCP/IP packets into transferred application packets, and convert the transferred application packets into the facsimile using the individual application packet lengths.

13. The facsimile system of claim 12 wherein the first communication processing system is configured to receive the facsimile from a telephone network.

14. The facsimile system of claim 12 wherein the second communication processing system is configured to transfer the facsimile to a telephone network.

15. The facsimile system of claim 12 wherein the first communication processing system is configured to indicate the individual application packet lengths for each respective application packet by adding an application packet length field to the respective application packet.

16. The facsimile system of claim 12 wherein the first and second communication processing systems are configured to implement International Telecommunication Union Recommendation T.38.

17. A communication processing system for transferring a first facsimile and a second facsimile using a Transmission Control Protocol/Internet Protocol (TCP/IP) network, the facsimile system comprising:

an application processing system configured to convert the first facsimile into first application packets that indicate individual first application packet lengths and convert second application packets into the second facsimile using individual second application packet lengths in the second application packets; and

an interface coupled to the application processing system and configured to transfer the first application packets to a TCP/IP processing system and receive the second application packets from the TCP/IP processing system.

18. The communication processing system of claim 17 further comprising the TCP/IP processing system coupled to the interface and configured to convert the first application packets into first TCP/IP packets, transfer the first TCP/IP packets to the TCP/IP network, receive second TCP/IP packets from the TCP/IP network, convert the second TCP/IP packets into the second application packets, and transfer the second application packets to the interface.

19. The communication processing system of claim 18 wherein the application processing system is further configured to receive the first facsimile from a telephone network.

20. The communication processing system of claim 18 wherein the application processing system is further configured to transfer the second facsimile to a telephone network.

21. The communication processing system of claim 17 wherein the application processing system is configured to indicate the individual first and second application packet lengths for each respective application packet by adding an application packet length field to the respective application packet.

22. The communication processing system of claim 17 wherein the application processing system is configured to implement International Telecommunication Union Recommendation T.38.